

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent No.: 7,185,759

Date: March 6, 2007

RECEIVED

Application No.: 10/775,009

Filing Date: February 9, 2004

OCT 15 2010

Inventor: Ronald Rich

OFFICE OF PETITIONS

Title: ROTATING TOILET TOOL HOLDER

Docket No.: 16-595

10/13/2010 MBANGURA 00000010 200090 7105759

01 FC:1599 490.00 DA

MAINTENANCE FEE BRANCH
OFFICE OF FINANCE
571-273-6500**NOTIFICATION OF ERROR IN PAYMENT OF SMALL ENTITY FEE
FOR U.S. PAT. NO. 7,185,759**

Dear Sir or Madam:

U.S. Patent No. 7,185,759 (hereinafter "the '759 patent") issued on March 6, 2007. The assignee of record of the '759 patent is Waxman Consumer Products Group Inc. (hereinafter "Waxman").

At the time the '759 patent was filed and through the time of issuance of the '759 patent, Waxman was a small entity, as the total number of employees, including all affiliates, subsidiaries and related companies under the control of Waxman was less than 500 employees. Thus, small entity status was claimed upon filing of the application that matured into the '759 patent and all Patent Office fees associated with the '759 patent were properly paid under small entity status.

On or about April 1, 2008, Waxman was no longer entitled to small entity status. The 4th year maintenance fee for the '759 patent was due for payment on or before September 6, 2010. The 4th year maintenance fee for the '759 patent should have been paid under large entity status but inadvertently and without deceptive intent was incorrectly paid under small entity status.

The attached verified statement by George L. Pinchak (Exhibit A), a person with knowledge of the facts, explains the facts regarding the error in payment of the 4th year maintenance fee for the '759 patent, when the error was discovered, and also includes an itemized list of the payment made and the deficiency amount.

As explained in Exhibit A, prior to the due date of the maintenance fee on September 6, 2010, the undersigned in good faith attempted to change the entity status of the '759 patent from small entity to large entity. Specifically, on or about August 2, 2010, Mr. Pinchak prepared and signed a document entitled "Notification of Change of Entity Status" which sought to change the entity status for the '759 patent from small entity to large entity (hereinafter "Notification"). A true and correct copy of the executed Form is attached hereto as Exhibit A1. The executed Notification was faxed to the Office on August 2, 2010 by Carrie Lewis, the administrative assistant of the undersigned. A true and correct copy of the fax transmittal confirmation showing receipt of the executed Notification by the Office on August 2, 2010 is attached hereto as Exhibit A2.

For reasons that are not clear, the executed Notification was not acted upon by the Office and the entity status of the '759 patent was not changed from small entity to large entity. Thus, on or about September 6, 2010, the 4th year maintenance fee for the '759 patent was incorrectly and inadvertently paid by the firm's annuity service under small entity status. This payment of the '759 patent 4th year maintenance fee as a small entity was inadvertent and without deceptive intent.

The total deficiency of \$620.00 represents the entire amount of fees due resulting from the amount owed for a 3½ year maintenance fee under the January 12, 2009 fee schedule as a large entity, namely, \$980.00, less the amount actually paid as a small entity, namely, \$490.00, in addition to \$130.00 for payment of the 4th year maintenance fee during the six month grace period. Accordingly, authorization is hereby given to deduct payment in the amount of \$620.00

from deposit account number 20-0090. Please charge any additional fees or credit any overpayments to deposit account number 20-0090.

If any fees additional fees are determined to be due in connection with filing this document or any other document required to be filed during the remaining term of the '759 patent, the Commissioner is authorized to charge those fees to deposit account no. 20-0090. If any extension of time is required in connection with filing this document or any document filed during the remaining term of the '759 patent, such petition for extension of time is hereby made and is respectfully requested.

Respectfully submitted,

Date: 10/7/2010



George L. Pinchak
Reg. No. 37,697
Tarolli, Sundheim, Covell &
Tummino LLP
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114
(216) 621-2234
(216) 621-4072 Fax
gpinchak@tarolli.com

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent No.: 7,185,759

Issue Date: March 6, 2007

Application No.: 10/775,009

Filing Date: February 9, 2004

Inventor: Ronald Rich

Title: ROTATING TOILET TOOL HOLDER

Docket No.: 16-595

RECEIVED**OCT 15 2010****OFFICE OF PETITIONS****MAINTENANCE FEE BRANCH
OFFICE OF FINANCE
571-273-6500****VERIFIED STATEMENT UNDER 1.28(c) EXPLAINING ERROR IN PAYMENT
OF MAINTENANCE FEE UNDER SMALL ENTITY STATUS
FOR U.S. PAT. NO. 7,185,759**

Dear Sir or Madam:

This Verified Statement is made by the person having personal knowledge to explain how the error in good faith occurred and when it was discovered in connection with the accompanying NOTIFICATION OF ERROR IN PAYMENT OF SMALL ENTITY FEE FOR U.S. PAT. NO. 7,185,759, for the above-identified U.S. Patent No. 7,185,759 (hereinafter "the '759 patent").

1. Application Serial No. 10/775,009, which matured into the '759 patent, was filed on February 9, 2004. The '759 patent issued on March 6, 2007. The assignee of record of the '759 patent is Waxman Consumer Products Group Inc. (hereinafter "Waxman"). At the time the '759 patent was filed and through the time of issuance of the '759 patent, upon information and belief, Waxman was a small entity, as the total number of employees, including all affiliates, subsidiaries and related companies under the control of Waxman was less than

500 employees. Thus, small entity status was claimed upon filing of the '759 patent and all Patent Office fees associated with the '759 patent were properly paid under small entity status.

2. Upon information and belief, on or about April 1, 2008, Waxman was no longer entitled to small entity status. I became aware of this fact on or about August 2008 as a result of communication with a Waxman employee.

3. The 4th year maintenance fee for the '759 patent was due for payment on or before September 6, 2010. Waxman was aware that the 4th year maintenance fee for the '759 patent would need to be paid under large entity status.

4. Our law firm (Tarolli, Sundheim, Covell & Tummino LLP) utilizes Computer Patent Annuity Services, Inc. of Rockville, Maryland (hereinafter "CPI") for payment of certain fees and annuities, including U.S. patent maintenance fees.

5. Prior to the due date of the 4th year maintenance fee for the '759 patent on September 6, 2010, the undersigned in good faith attempted to change the entity status of the '759 patent from small entity to large entity. Specifically, on or about August 2, 2010, the undersigned prepared and signed a document entitled "Notification of Change of Entity Status" which sought to change the entity status of the '759 patent from small entity to large entity (hereinafter "Notification"). A true and correct copy of the executed Notification is attached hereto as Exhibit A1. The executed Notification was faxed to the Office on August 2, 2010 by Carrie Lewis, the administrative assistant of the undersigned.

A true and correct copy of the fax transmittal confirmation showing receipt of the faxed, executed Notification is attached hereto as Exhibit A2.

6. For reasons that are not clear, the executed Notification, although received by the Office on August 2, 2010, apparently was not acted upon by the Office. Thus, the entity status of the '759 patent was not changed from small entity to large entity. On or about September 6, 2010, the 4th year maintenance fee for the '759 patent was incorrectly and inadvertently paid by CPI under small entity status. This payment of the '759 patent 4th year maintenance fee as a small entity was inadvertent and without deceptive intent.

7. The following is an itemization of the payment made and the deficiency owed for the '759 patent since the change to large entity status on April 1, 2008. Also calculated is the total deficiency owed for the '759 patent at present, according to the January 12, 2009 fee schedule, resulting from the change to large entity status:

<u>Date</u>	<u>Description</u>	<u>Paid</u>	<u>Actually Owed</u>
September 6, 2010	4th Year Maintenance Fee	\$490	\$980
Total deficiency owed: <u>\$620.00</u> (which includes \$130.00 for payment during the sixth month grace period).			

8. Any error in paying the above listed fees as a small entity was without deceptive or fraudulent intent and was inadvertent.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; further that these statements were made with the knowledge

that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the '759 patent.

Date: 10/7/2010



George L. Pinchak
Reg. No. 37,697
Tarolli, Sundheim, Covell &
Tummino LLP
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114
(216) 621-2234
(216) 621-4072 Fax
gpinchak@tarolli.com

EXHIBIT A1

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent No. 7,185,759

Issued: March 6, 2007

RECEIVED

Inventor: Ronald Rich

OCT 15 2010

For: ROTATING TOILET TOOL HOLDER

OFFICE OF PETITIONSAttorney 16-595
Docket No.:MAIL STOP M Correspondence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being transmitted via facsimile to: the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 On: <u>8-2-10</u> By: <u>Carrie A. Lewis</u> Carrie A. Lewis
--

NOTIFICATION OF CHANGE IN ENTITY STATUS

Dear Sir or Madam:

Applicants' hereby notify the Commissioner that the owner of this patent is no longer entitled small entity status. This statement is signed by an attorney of record as permitted under 37CFR 1.33(b).

Respectfully submitted,

Date:

8/2/2010

George L. Pinchak

Registration No. 37,697

Tarolli, Sundheim, Covell & Tummino L.L.P.

1300 East Ninth Street

Suite 1700

Cleveland, OH 44114

Telephone: 216/621-2234

Facsimile: 216/621-4072

EXHIBIT A2

MODE = MEMORY TRANSMISSION

START=AUG-02 14:40

END=AUG-02 14:40

FILE NO. =411

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	S	15712736500	001/001	00:00:17

RECEIVED

OCT 15 2010

OFFICE OF PETITIONS

2166214072-*****

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. 7,185,759

Issued: March 6, 2007

Inventor: Ronald Rich

For: ROTATING TOILET TOOL HOLDER

Attorney 16-595
Docket No.:MAIL STOP M Correspondence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION I hereby certify that this paper is being transmitted via facsimile to: the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 On: 8-2-10 By: <u>Carrie A. Lewis</u> Carrie A. Lewis

NOTIFICATION OF CHANGE IN ENTITY STATUS

Dear Sir or Madam:

Applicants' hereby notify the Commissioner that the owner of this patent is no longer entitled small entity status. This statement is signed by an attorney of record as permitted under 37CFR 1.33(b).

Respectfully submitted,

Date: 8/2/2010

George L. Pinchak
George L. Pinchak
Registration No. 37,697
Tarolli, Sundheim, Coveil & Tummino LLP.
1300 East Ninth Street
Suite 1700
Cleveland, OH 44114
Telephone: 216/621-2234
Facsimile: 216/621-4072